

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ALVETT FOBBS, et al.,

Plaintiffs,

v.

CITY OF UNION CITY,

Defendant.

No. C 09-2723 PJH

**ORDER GRANTING MOTION FOR  
LEAVE TO AMEND COMPLAINT**

Plaintiffs' motion for leave to file a third amended complaint came on for hearing before this court on August 25, 2010. Plaintiffs, certain minor children represented by guardian ad litem as well as individual plaintiffs proceeding in their own behalf (collectively "plaintiffs"), appeared through their counsel, Pamela Price and Jeshawn Harrell. Defendant City of Union City ("defendant" or the "City") appeared through its counsel, Tricia Hynes. Having read the parties' papers and carefully considered their arguments and the relevant legal authority, and good cause appearing, the court hereby GRANTS plaintiffs' motion for leave to file an amended complaint, for the reasons stated at the hearing.

Leave to file an amended complaint is granted, however, subject to certain limitations. First, to the extent plaintiffs seek to amend their single remaining claim under section 1983 to reflect that it is premised on a violation of the Fourteenth Amendment rather than a Title VI violation, plaintiffs shall clearly allege and identify their reliance on alleged equal protection violations, or due process violations, or both. Second, while the court concludes that defendants' standing arguments with respect to various individual plaintiffs are premature at this juncture and are more appropriately the subject of a motion to dismiss in future, plaintiffs must nonetheless clearly allege and identify in their third

1 amended complaint the particular type of relief sought by each individual plaintiff (i.e.,  
2 whether injunctive relief or damages). Finally, to the extent plaintiffs seek broadly worded  
3 injunctive relief, such as that identified by the court in paragraph 3 of the second amended  
4 complaint, such a request is improperly vague. Thus, any amended complaint should  
5 contain allegations of injunctive relief that are sufficiently tailored so as to survive the  
6 court's scrutiny.

7 As instructed at the hearing, plaintiffs' third amended complaint shall be filed no later  
8 than September 1, 2010. Defendant may file a response within 21 days of the filing of the  
9 third amended complaint. The briefing schedule in connection with class certification shall  
10 be re-scheduled, dependent upon defendant's response to plaintiffs' amended filing. If  
11 defendant files an answer to the third amended complaint, the parties shall file a joint  
12 stipulation within two weeks thereafter setting a briefing schedule on class certification.  
13 Otherwise, if defendant files a motion to dismiss the third amended complaint, the court  
14 shall set a briefing schedule at the hearing on the motion to dismiss.

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16 **IT IS SO ORDERED.**

17 Dated: September 1, 2010



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19 PHYLLIS J. HAMILTON  
20 United States District Judge  
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